

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORIGINAL SIDE

APPEAL NO.20 OF 1995  
IN  
SUIT NO.1028 OF 1978

Bihar State Food & Civil Supplies  
Corporation Limited

Appellant

vs.

1. Godrej Industries Limited & ors.

Respondents

Mr.H.J.Thakkar, senior counsel i/b. M/s.Dhruva & Co.  
for the appellants.

Mr.R.A.Dada, senior counsel i/b.Mr.R.Ravindran for the  
respondent no.1.

Mr.D.V.Merchant with Mr.Vatsal Shah for the respondent  
no.2.

**ALONG WITH**

APPEAL NO.120 OF 1995  
IN  
SUIT NO.1028 OF 1978

United Commercial Bank

Appellants

vs.

1. Godrej Industries Ltd. & ors.

Respondents

Mr.D.V.Merchant with Mr.V.J.Shah i/b. M/s.Kanga & Co.  
for the appellants.

Mr.R.A.Dada, senior counsel i/b. Mr.R.Ravindran for the  
respondent no.1.

Mr.H.J.Thakkar, senior counsel with Mr.Swapnil Bangur  
i/b. M/s.M.Dhruva & Co. for the respondent no.2.

**CORAM : R. M. LODHA &  
J.P. DEVADHAR, JJ.**

**DATED : 20th June 2005**

**P.C.**

Our attention was invited to the order dated December 2, 1996 passed by the Supreme Court in Transfer Petition (C) No. 458 of 1995.

2. The said order to the extent it is relevant reads

thus:

"The Civil Suit No.236/79 pending on the file of the Subordinate Judge, Patna was transferred by an order of this Court dated February 15, 1988 to be tried along with Suit No.1028/78 pending on the original side of the Bombay High Court. It is now not in dispute that though Suit No.1028/78 was posted along with transferred suit which was numbered as Suit No.398/89 and they were adjourned for some time, the evidence was adduced in Suit No.1028/78 and it was decreed by the learned Single Judge. An appeal came to be filed and we are informed that the appeal is pending disposal.

It would appear that UCO Bank has filed an appeal and that is also pending. After the disposal of Suit No.1028/78, now the appellants have filed this application for transfer of Suit No.398/89 to the file of the Subordinate Judge, Patna for trial of the case that the order passed by this Court for joint trial outlived its purpose and suit no.398/89 tried on issues which are not covered in Suit No.1028/78. Having regard to the facts and circumstances and the nature of the disputes between the same parties in both the suit, instead of transferring Suit No.398/89

to the Court of Subordinate Judge, Patna, the learned Judge on the original side is requested to frame necessary issues in Suit No.398/89 within six weeks from the date of the receipt of this order. If the relevant documents have already been filed or any additional documents are required, the same may be filed within two weeks thereafter. The learned Judge is requested to post the suit and try the suit on day to day basis within four weeks from the date of the framing of issues. The learned trial Judge is requested, after recording the entire evidence to be adduced by the parties, as stated earlier, on day-to-day basis, to transmit the entire evidence and the record of the suit to the Division Bench for consideration alongwith the Appeal Nos. 20 and 120/95 for disposal so that conflict of decisions could be avoided. The matter can be disposed of expeditiously. Liberty be given to make the request before the Division Bench after the receipt of the record to adduce evidence in the suits for early disposal thereof."

3. In the light of the aforesaid order passed by the Supreme Court, we are informed by the learned senior counsel and the counsel appearing for the parties that the Suit No.398/1989 is to be disposed of with these two appeals being Appeal Nos.20/1995 and 120/1995. The Court Associate informs us that the papers of Suit No.398/1989 have not been transmitted nor any compilation of paper book pertaining to Suit No.398/1989 has been filed. For want of the paper of Suit No.398/1989 these two appeals cannot be heard.

4. The learned counsel appearing for the plaintiff in

Suit No.398/1989 submits that the advocate on record for the plaintiff-State of Maharashtra in Suit No.398/1989 would endeavour to prepare the compilation.

5. Let these appeals along with Suit No.398/1989 be posted for direction after three weeks as prayed.

**(R.M. LODHA,J.)**

**(J.P. DEVADHAR,J.)**